

Notice of Allowability

Application No.

10/801,520

Examiner

Michele Flood

Applicant(s)

MAZZIO ET AL.

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to July 6, 2007.
2. ☒ The allowed claim(s) is/are 33-47 and 49-59.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Michele Flood
Primary Examiner
Art Unit: 1655

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, Claims 33-59 in the reply filed on July 6, 2007 is acknowledged.

Allowable Subject Matter

Claims 33-47 and 49-59 are allowed.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Elizabeth A. Mazzio on September 13, 2007.

The application has been amended as follows:

IN THE ABSTRACT:

In line 1 of the abstract, delete "This invention discloses a"; and insert - - A - -.

IN THE CLAIMS:

Cancel Claims 48 and 60-63.

In Claim 33, line 7, delete "and".

In Claim 33, line 10, delete "frankincense".

In Claim 33, line 10, delete "and".

In Claim 33, line 11, delete "aloe vera"; and insert - - *Aloe vera* - -.

In Claim 33, line 13, after "niacinamide," insert - - and - -.

In Claim 33, line 13, delete "and its".

In Claim 33, line 14, delete "chemical derivatives".

In Claim 34, line 2, delete "is further comprised of"; and insert - - comprises - -.

In Claim 34, line 2, delete "the species".

In Claim 34, line 2, delete "or any plant from the genus".

In Claim 34, line 3, delete "*Juglans*".

In Claim 34, line 3, after "of", insert - - the - -.

In Claim 34, line 3, after "total", insert - - weight of the".

In Claim 35, line 2, delete "is further comprised of"; and insert - - comprises - -.

In Claim 35, line 2, delete "the species".

In Claim 35, line 2, replace the capital "A" in "*Absinthium*"
with a lower case - -a - -.

In Claim 35, line 2, delete "or any plant from".

In Claim 35, line 3, delete "from the genus *Artemisia*".

In Claim 35, line 3, after "of", insert - - the - -.

In Claim 35, line 3, after "total", insert - - weight of the - -.

In Claim 36, line 1, delete "is".

Art Unit: 1655

In Claim 36, line 2, delete "further comprised of"; and insert - - comprises - -.

In Claim 36, line 2, delete "the species".

In Claim 36, line 2, replace the capital "L" in "*Longa*" with a lower case - l - -.

In Claim 36, line 2, delete "or any plant from the genus".

In Claim 36, line 3, delete "*Curcuma*".

In Claim 36, line 3, after "of", insert - - the - -.

In Claim 36, line 3, after "total", insert - - weight of the".

In Claim 37, line 1, delete "is".

In Claim 37, line 2, delete "further comprised of"; and insert - - comprises - -.

In Claim 37, line 2, delete "the species".

In Claim 37, line 2, delete "or any plant from the genus".

In Claim 37, line 3, delete "*Allium*".

In Claim 37, line 3, after "of", insert - - the - -.

In Claim 37, line 3, after "total", insert - - weight of the".

In Claim 39, line 1, delete "can".

In Claim 39, line 2, delete "be"; and insert - - is - -.

In Claim 39, line 2, after "of", insert - - the - -.

In Claim 39, line 2, after "total", insert - - weight of the - -.

In Claim 40, line 2, delete "is further comprised of"; and insert - - comprises - -.

In Claim 40, line 2, delete "the species".

In Claim 40, line 2, delete "or any plant".

In Claim 40, line 3, delete "from the genus "*Hypericum*".

Art Unit: 1655

In Claim 40, line 3, after "of", insert - - the - -.

In Claim 40, line 3, after "total", insert - - weight of the - -.

In Claim 41, line 1, delete "is".

In Claim 41, line 2, delete "further comprised of"; and insert - - comprises - -.

In Claim 41, line 2, delete "from the species".

In Claim 41, line 2, replace the capital "G" in "*Glabra*" with a lower case - - g - -.

In Claim 41, line 2, delete "or any plant from the"

In Claim 41, line 3, delete genus "*Glycyrrhiza*".

In Claim 41, line 3, after "of", insert - - the - -.

In Claim 41, line 3, after "total", insert - - weight of the".

In Claim 42, line 1, delete "is".

In Claim 42, line 2, delete "further comprised of"; and insert - - comprises - -.

In Claim 42, line 2, delete "the species".

In Claim 42, line 2, replace the capital "C" in "*Chamomile*"

with a lower case - - c - -.

In Claim 42, line 2, delete "or any plant from".

In Claim 42, line 3, delete "the genus *Matricara* or *Anthemis*".

In Claim 42, line 3, after "of", insert - - the - -.

In Claim 42, line 3, after "total", insert - - weight of the - -.

In Claim 43, line 2, delete "frankincense".

In Claim 43, line 2, delete "are further comprised of"; and insert - - comprises - -.

In Claim 43, line 3, delete "*Boswellia carteri*".

Art Unit: 1655

In Claim 43, line 3, delete "where"; and insert - - wherein - -.

In Claim 43, line 4, after "of", insert - - the - -.

In Claim 43, line 4, after "total", insert - - weight of the - -.

In Claim 44, line 1, delete "aloe vera"; and insert - - *Aloe vera* - -.

In Claim 44, line 3, after "of", insert - - the - -.

In Claim 44, line 3, after "total", insert - - weight of the - -.

In Claim 45, line 2, delete "further comprised"; and insert - - comprises - -.

In Claim 46, line 2, after "in", delete "the"; and insert - - a - -.

In Claim 46, line 5, delete "unique".

In Claim 47, line 2, delete "is further comprised of"; and insert - - comprises - -.

In Claims 49-56, line 2, after "of", insert - - the - -.

In Claim 49-56, line 2, after "total", insert - - weight of the - -.

In Claim 57, line 2, delete "frankincense,".

In Claim 57, line 3, after "of", insert - - the - -.

In Claim 57, line 3, after "total", insert - - weight of the - -.

In Claim 58, line 1, delete "aloe vera"; and insert - - *Aloe vera* - -.

In Claim 58, line 2, after "of", insert - - the - -.

In Claim 58, line 3, after "total", insert - - weight of the - -.

In Claim 59, line 2, after "niacinamide,", insert - - and - -.

In Claim 59, line 2, delete "and its chemical derivatives".

In Claim 59, line 2, after "of", insert - - the - -.

In Claim 43, line 3, after "total", insert - - weight of the - -.

Art Unit: 1655

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHELE FLOOD
PRIMARY EXAMINER

Michele Flood
Primary Examiner
Art Unit 1655

September 16, 2007